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KONTRON AMERICA, INC.
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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 EXCEPTIONAL INNOVATION, LLC,

11 Plaintiff,

12 vs.

13 KONTRON AMERICA, INC.,

14 Defendant.

15
16 KONTRON AMERICA, INC.,

17 Counter-Claimant,

18 v.

19 EXCEPTIONAL INNOVATION, LLC,

20 Counter-Defendant.
21

CASE NO. 07CV2041 LAB(WMc)

**DECLARATION OF ANTHONY T.
HALLETT IN SUPPORT OF KONTRON
AMERICA, INC.'S RESPONSE TO
COURT'S ORDER TO SHOW CAUSE
RE JURISDICTION**

Honorable Larry Alan Burns
Ctm: 9
Action Filed: June 27, 2007

22 I, Anthony T. Hallett, declare:

23 1. I am a Product Manager with Defendant and Counter-Claimant Kontron
24 America, Inc. ("Kontron"). I have held that position since approximately May 2006.
25 Previously, from October 2000 through May 2006, I was an Internal Sales Engineer with
26 Kontron. I have knowledge of the facts below from my personal knowledge or based on
27 my review of Kontron's books and records. I make this Declaration in support of
28 Kontron's Response to the Court's Order To Show Cause Re Jurisdiction.

1 Exceptional's Founding Member Introduces Exceptional To Kontron

2 2. In late 2004, Plaintiff and Cross-Defendant Exceptional Innovation, LLC
3 ("Exceptional") expressed an interest in purchasing products from Kontron, specifically
4 certain component parts that would be integrated into Exceptional's products.

5 3. Over a period of several months, Kontron and Exceptional discussed each
6 other's products and services. I participated in many of these discussions and meetings,
7 some of which took place in person at Kontron's offices in San Diego County, California.

8 4. At one meeting between Kontron and Exceptional in early 2005 that I
9 attended, Exceptional gave Kontron a presentation regarding its business. Exceptional's
10 Seale Moorer told the story of how he founded Exceptional and put his team together.

11 5. During that meeting, and throughout the business relationship between
12 Kontron and Exceptional, Mr. Moorer held himself out to be a founder, partner and
13 member owner of Exceptional.

14 Exceptional's Only Two Members Reside in Ohio or Florida, and Not in California

15 6. Mr. Moorer told me that he splits his time between living in Ohio and
16 Florida. I am informed and believe that Mr. Moorer resides in either Ohio or Florida and
17 resided in either Ohio or Florida at the time that Kontron filed its counter-claim against
18 Exceptional in August 3, 2007.

19 7. Mr. Moorer told me that Eric Eichensehr was someone whom Mr. Moorer
20 brought into Exceptional. I am informed and believe that Mr. Eichensehr is a member
21 owner of Exceptional as well.

22 8. I am informed and believe that Mr. Eichensehr resides in Delaware County,
23 Ohio and resided there at the time that Kontron filed its counter-claim against
24 Exceptional.

25 9. In my experience, Exceptional holds Mssrs. Eichensehr and Moorer out as
26 its owners and management. For example, the only two persons listed on Exceptional's
27 website as "partners" are Mssrs. Eichensehr and Moorer. (A true and correct copy of a
28 .pdf entitled "Backgrounder" that is linked on Exceptional's website under the "About EI"

1 link and identified as "Corporate Backgrounder" at [www.exceptionalinnovation.com/](http://www.exceptionalinnovation.com/about_ei.php)
2 about_ei.php is attached to this declaration as Exhibit A.)

3 10. Exceptional started purchasing products from Kontron in 2005. There is
4 currently an outstanding principal balance exceeding \$210,000 that Exceptional owes to
5 Kontron for products that Kontron shipped to Exceptional and invoiced in November
6 2006, December 2006 and January 2007. Kontron's counter-claim arises mainly out of
7 these unpaid invoices.

8 11. To summarize, based on my knowledge and experience with Exceptional
9 over the years, Exceptional is an Ohio Limited Liability Company, with its principal place
10 of business in Delaware County, Ohio. To the best of my knowledge, information and
11 belief, Exceptional has only two members, specifically, Mssrs. Eichensehr and Moorer,
12 both of whom reside in either Ohio or Florida.

13 12. Kontron is a Delaware corporation, with its principal place of business in
14 San Diego County, California.

15 I declare under penalty of perjury under the laws of the United States of America
16 that the foregoing is true and correct and was executed this 20th day of November, 2007
17 at San Diego, California.

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19 ANTHONY T. HALLETT
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